

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MARYLAND**

NANCY I. CLINE, et al.

Plaintiffs

v.

Case No. JFM-03-CV-529

AGAPE HARVESTER CHURCH, INC., et al.

Defendants

PLAINTIFFS' SUPPLEMENTAL REQUEST FOR INSTRUCTIONS TO THE JURY

9 B LAST CLEAR CHANCE MPJI 19:14

A plaintiff who was contributorily negligent may nevertheless recover if the plaintiff was in a dangerous situation and thereafter the defendant had a fresh opportunity of which defendant was aware to avoid injury to the plaintiff and failed to do so.

Comments: The elements of last clear chance are: (a) Negligence of the Defendant, (b) Contributory negligence of defendant and (c) Something new or independent affording defendant a fresh opportunity to avert the consequences of defendant's original negligence and plaintiff's contributory negligence. The rationale is that if the defendant could have avoided the accident, the defendant's, not the plaintiff's failure was the proximate cause of the result. (cases cited in MPJI)

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